

MEMORANDUM

TO: MARINE FISHERIES COMMISSION

FROM: PAUL DIODATI, DIRECTOR

SUBJECT: CLARIFICATION OF EMERGENCY RULES

DATE: FEBRUARY 5, 2003

As discussed at the MFC's January business meeting, I am implementing emergency regulations that further govern the transfer of licenses. In addition, a number of other permit related actions have been identified that warrant emergency rules. These actions are needed to prevent undermining state and federal fisheries conservation goals.

Temporary Moratorium on Coastal Lobster License Transfers After February 7, 2003, no applications for transfer of existing coastal commercial lobster permits shall be accepted. A moratorium on transfers shall remain in effect until after spring public hearings when effort control regulations may be approved as a means to accomplish the goals and objectives of the interstate lobster management plan for 2004 and beyond. Exceptions will be made to allow the transfer of permits held by individuals that began the permit transfer process prior to 2003; we will also continue to allow posthumous transfer of permits from one family member to another.

Offshore Lobster Permit Moratorium to prevent permit splitting in the lobster fishery. Some holders of both the state's coastal and offshore federal lobster permits have been increasing cumulative effort attributable to both permits by separating the permits; rather than keeping both permits on a single vessel. This scenario is known in fishery management circles as "Pregnant Boat Syndrome" In those cases, the permits are being assigned to two different vessels in hopes of fishing 800 traps in coastal waters and 800 traps in federal waters. In order to accomplish this separation of permits the permit holder must apply for a new offshore state permit. I intend to discourage this practice by creating an emergency rule that will limit issuance of our offshore permits. Beginning February 7, 2003, only renewals of offshore lobster permits will be allowed; this is consistent with federal rules where limited entry to the offshore fishery is already in place.

Constraints on shifting regulated fishery permits to other vessels. This rule change is critical for the management of groundfish fishing gears (gillnetters, trawlers) in state waters. With the recent and upcoming restrictions on effort (Days-at-Sea reductions) we have seen fishermen who own both a state and federal permit for their vessel's activities attempt to "split" their permit and add a second vessel to their operations to fish their state permit exclusively in state waters because our state rules are less restrictive. (MA has no DAS limits, and no limit on the count of gillnets allowed to be fished). I have directed my staff to review the limited entry regulated fishery permit files and examine each permit's vessel listing to determine if the permit holder is also conducting federally regulated fishing for similar gears and species on that vessel.

Furthermore, it has come to my attention that permit holders that have gillnet endorsements on existing permits are requesting issuance of new commercial boat permits and then asking that the gillnet endorsement be transferred to the new permit. This is an avenue to effect a "transfer" of the gillnet endorsement, which is not allowed. I've decided that an emergency rule that limits participation in regulated fisheries to the individual, vessel, or business entity is in the best interests of the Commonwealth at this time. The authorizations are often used to waive the requirement that permit holders be owner/operators in order to accommodate for the death of a permit holder, for military leave, for sickness or other factors affecting the permit holder's ability to conduct routine business practices. The new rule specifies that an authorization granted for use of a permit requires that the fishing operation that includes the gear and vessel of the permit holder that was actively fished prior to the request is the same fishing operation fished after the authorization is granted.